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6962nd meeting
Wednesday, 8 May 2013, 10 a.m.
New York

President:	Mr. Menan	(Togo)
Members:	Argentina	Mrs. Perceval
	Australia	Mr. Quinlan
	Azerbaijan	Mr. Musayev
	China	Mr. Shen Bo
	France	Mr. Briens
	Guatemala	Mr. Rosenthal
	Luxembourg	Ms. Lucas
	Morocco	Mr. Loulichki
	Pakistan	Mr. Masood Khan
	Republic of Korea	Mr. Kim Sook
	Russian Federation	Mr. Zagainov
	Rwanda	Mr. Gasana
	United Kingdom of Great Britain and Northern Ireland	Mr. McKell
	United States of America	Mrs. DiCarlo

Agenda

The situation in Libya

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The meeting was called to order at 10.10 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in Libya

The President (*spoke in French*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of Libya to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I now give the floor to Prosecutor Bensouda.

Ms. Bensouda: Thank you, Mr. President, for this opportunity to address the Security Council for the fifth time on the situation in Libya since it was referred to the International Criminal Court (ICC), in February 2011.

When the Security Council referred the situation in Libya to the Court, it had determined that it would be in the interest of peace and security. We have all witnessed developments in Libya since the demise of the Al-Qadhafi regime. Despite important progress made in moving Libya forward on the path of democracy, the rule of law and respect for human rights, many challenges remain. The resolve of the Council when it referred the situation in Libya was not only to ensure accountability for perpetrators of crimes, but also to secure lasting peace for the Libyan people. The Council must therefore continue assisting Libya through the difficult times that it faces. It is only through our joint coordinated efforts that justice and peace will prevail.

Following the admissibility challenges filed by the Libyan Government with regard to the *Saif Al-Islam Al-Qadhafi* and *Abdullah Al-Senussi* cases and in accordance with the Rome Statute, investigations with respect to those cases have been suspended. The Al-Qadhafi case has advanced to a stage where it remains for the Chamber to pronounce itself on the submissions made by all parties. We expect the Chamber to do so in the near future. Only last week, my Office filed its response to Libya's challenge on the admissibility of the *Al-Senussi* case. It is commendable that Libya is invoking its rights under the Rome Statute through a judicial process. In doing so, Libya demonstrates its full understanding of the difference between the Council's political mandate and the ICC's judicial mandate, even where the Council has referred the situation to the International Criminal Court.

More important, Libya is engaged in the development of the law. Irrespective of the outcome, the admissibility processes under way at the ICC will set the standard for years to come on how the Court and States interact with each other regarding national proceedings. As the Statute dictates, a State seeking a finding of inadmissibility of cases before ICC must satisfy the judges that it is genuinely investigating and prosecuting the same persons for the same conduct as that under investigation by the Office of the Prosecutor. That is the law and nothing short of that will suffice. By conducting fair, just and transparent judicial proceedings for all alleged perpetrators, while also continuing to respect the ICC judicial process, Libya can set a lasting example for other States.

Given the extensive crimes committed in Libya and the challenges facing the new Libyan Government, the ICC's mandate is still essential to ending impunity in Libya. My Office therefore continues to conduct investigations of crimes committed in Libya.

My Office is aware of allegations of serious crimes committed by former Al-Qadhafi officials, some of who are now outside of Libya. We are currently engaged in the process of documenting the most serious of those crimes and are documenting the current activities of those officials who were most responsible for them. The Office plans to take a decision regarding a second case in the near future and will consider additional cases after that, depending upon the Government of Libya's progress in implementing its comprehensive strategy.

My Office also continues to be concerned about the allegations of crimes committed by rebel forces, including the expulsion of residents of Tawergha, who have been unable to return home, the ongoing alleged persecution of ethnic groups perceived to have been affiliated with the Al-Qadhafi regime and specific incidents as yet unaccounted for, such as the alleged execution of 50 persons on the grounds of the Mahari Hotel in Sirte in October 2011, and the alleged arbitrary detention, torture, killings and destruction of property

that arose during Libyan Government and militia operations in Bani Walid in September 2012.

Complementarity and cooperation define the relationship between the Court and national justice systems. Both are therefore essential for the implementation of international justice and the punishment of crimes under the Rome Statute. Above all, both are essential for ensuring that prosecution of the few does not result in impunity for the many. It is for that reason that my Office continues to explore possibilities for mutually reinforcing judicial activities with the Government of Libya in fostering complementarity.

I recently met the new Libyan Prosecutor-General, Mr. Abdul Qader Juma Radwan, and the Libyan ICC focal point, Mr. Ahmed El-Gehani, who travelled to The Hague at my request to discuss our ongoing investigations. The constructive and fruitful discussions between my Office and the Libyan delegation focused on cooperation and the coordination of efforts to advance the Office's investigative activities, both within and outside Libya. Those preliminary positive discussions illustrate the willingness of my Office and the Government of Libya to cooperatively work together in furthering investigations that could lead to the arrest and surrender of alleged perpetrators, both inside and outside Libya. I plan to travel to Libya soon to further my discussions with the highest political authorities.

Allow me to stress the importance of all of us working together with the Government of Libya to realize a comprehensive strategy for justice. My Office is encouraged to see the important strides made in transforming Libya, including the first democratic elections in more than four decades, the installation of a new Government last November, and the appointment of a new Prosecutor-General.

Those signs of progress cannot eclipse the challenge that Libya faces in addressing the legacy of so many years of impunity. It need not be a challenge that Libya faces alone. By the same token, Libya must realize that with the international intervention in Libya, in the context of all of the developments that have taken place in the last three years in the region, what happens with Libya's perpetrators is a page in the history books of international justice, no matter where those investigations and prosecutions take place. They must be a shining example of what we can achieve through human endeavours to seek justice. Those trials can be Libya's Nuremberg moment, one that will endeavour to seal the primacy of the rule of law, due process and human rights for future generations.

My Office looks forward to discussing with Prosecutor-General Radwan and the Libyan authorities the best way forward and how we can collaborate and coordinate our efforts to ensure that all alleged perpetrators are held to account.

As Prosecutor, I cannot and should not get involved in political considerations; nor should I ever stretch the interpretation of the norms adopted in Rome. Equally, neither the Council or its members nor any State, for that matter, should ever seek to interfere with the judicial processes of the Court.

Regardless, I look forward to continuing my discussions with the Council about how we can ensure that our coordinated follow-up of referrals of situations like that in Libya will allow us to bring our considerable resources and knowledge to bear in ensuring that peace and justice prevail in Libya.

The President (*spoke in French*): I thank Ms. Bensouda for her briefing.

I shall now give the floor to the members of the Security Council.

Mr. Quinlan (Australia): I would like to thank the Prosecutor, Ms. Bensouda, for her briefing this morning on the work of her Office in relation to Libya. Clearly, the situation in Libya demonstrates the distinct but complementary roles of the International Criminal Court (ICC) and the Security Council. The Council has repeatedly highlighted the importance of accountability and of ending impunity for the most serious crimes, for the maintenance of international peace and security. Consistent with that, the Council has twice asked the ICC to play a direct role in the context of a Chapter VII resolution: first, in respect of Darfur, in resolution 1593 (2005), and, secondly, its referral of the Libyan situation, in resolution 1970 (2011), which is the subject of today's briefing.

While some good progress has been made, Libya continues, as we know, to face complex and serious challenges. It is important for all aspects of the international response — the United Nations special Mission, the Council's sanctions regime and international criminal procedures — to be coordinated and complementary.

In March, the Council, in resolution 2095 (2013), renewed its call on the Libyan Government to continue to cooperate with the ICC and the Prosecutor. We are encouraged by the fact that Libya continues to demonstrate a strong desire to prosecute those accused of committing Rome Statute crimes and that, in challenging the admissibility of ICC proceedings, Libya has followed Rome Statute procedures. As we await the outcome of those proceedings, we would like to reiterate the importance of the Libyan Government respecting the Court's rulings on the admissibility challenges, whatever their outcomes.

The situation in Libya demonstrates that the ICC can, and does, play a significant role in strengthening the rule of law in States undergoing post-conflict transition. Referral of the situation in Libya to the ICC was an important and necessary step for the Council to have taken. As I mentioned yesterday during the informal interactive dialogue, the ICC referral has served as a catalyst for Libya's own efforts, not just in regard to the two individuals currently subject to proceedings, but also with respect to the reform of Libya's judicial system, a decisive element of its transition to democracy.

Ensuring respect for the rule of law in Libya is the responsibility of the Libyan authorities themselves. Regardless of the outcome of Libya's jurisdictional challenge, it is important to bear in mind that the ICC's jurisdiction is limited to those most responsible for committing serious international crimes. It is therefore crucial for Libya to ensure that justice is served in relation to other perpetrators and other crimes.

Libya should continue to work with the Court to ensure that all allegations of serious international crimes are investigated and, where appropriate, prosecuted, regardless of whether those allegations concern supporters of Muammar Al-Qadhafi or those who raised arms to establish a new Libya. We very much welcome the Prosecutor's advice this morning of recent constructive initiatives by the Prosecutor and the Libyan authorities to ensure complementarity and cooperation in furthering investigations against perpetrators, both inside and outside Libya, to ensure that they all are held to account.

The Court is a vital partner for the Council. We all know that without justice it is difficult to establish an inclusive and lasting peace. Effective coordination between the ICC and the Council is essential in order to ensure that the separate efforts of the two bodies, which have very different mandates, have a multiplying and reinforcing effect and that they are able to work together to help end impunity for serious international crimes.

To enable the Court to carry out its work effectively, the Council needs to find creative ways to support it. Doing so is particularly important where the Court's jurisdiction derives from a Council resolution. The continued and active support of the Council is necessary to underscore the importance of States cooperating with the Court. Support from the Council is important to ensure that the objectives of its referrals are realized, namely, that justice is delivered and that international peace and security is maintained.

With that in mind, we support expanded cooperation between the Council and the Court. Yesterday's informal interactive dialogue between Council members and the Prosecutor was a very useful first step towards considering how the Council can more effectively support the Court's work. We look forward to working with other members of the Council to further develop what should be an organic relationship between the two bodies and to implement the Council's commitment to an effective follow-up of Council referrals to the Court.

In concluding, let me say that we look forward to further updates from the Prosecutor, in relation to both Libya and other situations before the Court.

Mr. Kim Sook (Republic of Korea): I thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her briefing on the recent developments in the Libyan situation, which the Security Council has referred to it.

Many tasks still lie ahead in Libya's nation-building process. Security must be improved, widely scattered weapons should be collected, and militia groups should be immobilized and reintegrated. The creation of a constitution is a very complex and sensitive process of social contracts.

Nevertheless, the Libyan people have made significant progress and have already overcome a number of challenges. National elections were successfully held for the first time in more than four decades. A new Government was formed, and the second anniversary of the revolution was celebrated without serious disturbances. With the successful completion of the ongoing transition, Libya will achieve sustained peace and a stable democracy.

The Prosecutor has raised four issues.

First, on the issue of cooperation between the ICC and Libya, in order for the ICC successfully to discharge the mandate that the Council has given it, close cooperation between the ICC and Libya is of pivotal importance. We urge Libya to continue to adhere to its international obligations, including those under resolution 1970 (2011), and to further enhance its cooperation with the ICC.

We welcome the contacts that the Office of the Prosecutor and the Libyan Government continue to maintain, and their ongoing efforts to ensure that a good level of cooperation is preserved. Such contacts should be regularized, as exemplified by the recent visit to the ICC by the new Libyan Prosecutor-General.

Secondly, with respect to the admissibility of the case against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi, we have taken note of the challenges initiated by Libya before the Court. It is a prerequisite for Libya to fully cooperate with the ICC in order to materialize such admissibility challenges. We are pleased that Libya and the ICC are continuing to engage constructively on issues relating to the ICC proceedings. Given the challenges that Libya is facing in this transitional post-conflict stage, it should be afforded reasonable time to prepare additional material. However, the ultimate decision on the matter should be made by the ICC Pre-Trial Chamber, which is judicially independent.

Thirdly, concerning the ongoing investigation by the Office of the Prosecutor, we appreciate its effort to investigate the allegations of crimes committed by pro-Al-Qadhafi officials outside of Libya and by rebel forces. After its ongoing investigations, the Office of the Prosecutor might open a second case. We hope that the investigations can corroborate the allegations of crimes and lead to justice being delivered to any victims of such serious crimes.

Fourthly, with respect to Libya's capacity to deal with past crimes and to promote the rule of law, we appreciate the important role played by the United Nations Support Mission in Libya (UNSMIL). As resolution 2095 (2013) articulates, we encourage UNSMIL to continue to support Libyan efforts to promote the rule of law, in accordance with Libya's international legal obligations.

In the case of the ICC, as a part of its implementation of the policy of positive complementarity the Prosecutor should assist Libyan authorities in prosecutions, using various methods to encourage Libya to prosecute cases domestically, whenever possible. The policy of positive complementarity and Libya's admissibility challenges could then be mutually pertinent. Libya's early formulation and adoption of an all-encompassing strategy to address past crimes and to end impunity will surely demonstrate that the principles of justice and accountability remain pillars of Libya's transition and key to ensuring lasting peace.

In conclusion, we welcome Libya's cooperation with the ICC, as evidenced by its recent admissibility challenge of 2 April. We look forward to a full investigation of all allegations of serious crimes committed in Libya, and we encourage the Prosecutor to continue her investigative efforts, in cooperation with the Libyan authorities. We stress the need for the Libyan Government to formulate, make public and implement a comprehensive strategy to address such crimes. The Korean Government stands ready to strongly support the ICC and its activities. We also believe that the Security Council should continue to closely monitor the Libyan situation that it has referred.

Mr. Zagainov (Russian Federation) (*spoke in Russian*): At the outset, allow me to thank Ms. Fatou Bensouda for her briefing and presentation of her fifth report on the investigations in Libya pursuant to resolution 1970 (2011).

We support the efforts of the International Criminal Court (ICC) to prosecute individuals who committed heinous crimes during the events in Libya. However, judging from the report, work continues to stall in that regard. In spite of appeals for an objective legal analysis of the activities of all parties to the conflict and post-conflict violence, investigations continue to concentrate only on suspects from the entourage of the former Libyan leader. Even on that front, in spite of ample legal proceedings and activities, we have yet to see progress. After almost two years, there has been no notable progress in prosecuting rebels, although there are accounts of those individuals committing brutal crimes in armed clashes. These facts are well known.

According to reports, violence in Libya unfortunately continues in today's post-conflict situation against a backdrop of problems with the functioning of the State apparatus and the central

Government's control over the country as a whole. We welcome the ICC's monitoring role in that regard.

Finally, there is the pending matter of the investigation of cases of civilian causalities and the destruction of civilian targets during NATO operations. We suggest that the ICC step up its analysis of information received from the United Nations fact-finding mission, humanitarian non-governmental organizations and other channels.

We support the legal foundation of ICC activities pursuant to the Rome Statute, including the principle of complementarity. Without a doubt, not all crimes committed in Libya should be investigated by the Court. The question is how effectively that principle can be implemented with specific respect to the Libyan situation. In that regard, it would be no exaggeration to state that the moment of truth has come for the ICC with regard to the Libyan investigations.

In our view, the impacts of the crisis in Libya are a serious obstacle to justice being effectively served. Reports from various sources, including civil society bodies, give cause for concern that there are gaping holes in the Libyan legal system. Some of those are a legacy from the past, while others are the direct consequence of recent events. We therefore highly doubt that, at this time, conditions in Libya are eminently conducive to conducting fair legal proceedings in line with international standards with respect to Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi.

The jurisdiction of the ICC over those cases is contested, and the matter of admissibility will ultimately be decided by the ICC. However, we understand that the Libyan side has not yet provided the Court with convincing information on national investigations. We do not fully understand why Libya has not done so for some time now. We suggest that the Prosecutor and Judges of the ICC take a more careful look into this situation.

We are also concerned by the lack of information regarding the detention of a group of ICC staff in Zintan in June 2012, which was a cause of great concern. That episode endangered the work of the ICC in Libya, undermined its credibility and the security of its staff, and had an adverse impact on interaction between the Court and States.

With respect to the Security Council interactive dialogue with the Prosecutor of the ICC that took place yesterday, we should like to know the following. Concerning the proposal with respect to the possible future steps of the Security Council to assist the ICC in the framework of the investigation of the Libyan situation, we feel that it would be appropriate to consider it in the light of practical suitability, the Council's mandate, the prerogatives of the ICC and the basic international legal context. For our part, we still do not understand the added value of the interactive dialogue that took place yesterday. In any case, we did not receive responses to our questions. When it comes to holding such meetings in the future, we would evaluate their suitability on a case-by-case basis and in the light of additional information to be provided by the Prosecutor. Moreover, we suggest that the Informal Working Group on International Tribunals, given its lack of mandate, is not the right format for discussions on international criminal justice.

Mr. Shen Bo (China) (*spoke in Chinese*): We listened carefully to the briefing by Ms. Bensouda.

Thanks to the efforts of the people of Libya, important progress has been made in the country's political transition. We hope that the people of Libya will work to achieve national cohesion and State unity, continue to move its political process forward, and tackle the many challenges it faces in order to achieve early national reconciliation, social stability and national economic reconstruction. The international community is called upon to continue to provide support and assistance to the Government and the people of Libya in their efforts.

China's position on the question of the International Criminal Court remains unchanged. We support the Government of Libya in its efforts to strengthen the rule of law, establish a sound judicial system, investigate and punish serious crimes. We also hope that the International Criminal Court, in its activities carried out under the relevant Security Council resolutions, will play a positive role in Libya's national reconstruction and political transition.

Mr. Rosenthal (Guatemala) (*spoke in Spanish*): We thank you, Mr. President, for having convened this morning's important meeting. We welcome the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, and thank her for her statement and her briefing.

Within the complex transition process which Libya is now undergoing, we welcome the progress

made by the Office of the Prosecutor of the ICC in the cases against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. We trust that as the transition process continues, a greater institutionality will take hold that will allow Libya to build a State that guarantees human rights, the rule of law and an end to impunity. We therefore believe that it is of great importance for Libya to continue to cooperate with the International Criminal Court and the Office of the Prosecutor. It is vital for those bodies to enjoy the support and necessary assistance of all States, including those that are not yet parties to the Rome Statute.

Guatemala believes that the Libyan authorities have the obligation to respect the work of the Court and the Office of the Prosecutor. To that end, they must be able to work without impediment or restriction of any kind. We hope that the security situation in Libya will improve and that the new Government will be able to provide the necessary support to all staff of the Court so that they can conduct investigations appropriately. In that respect, we wish to acknowledge the efforts made to designate a focal point for contact with the ICC, and the discussions aimed at improving cooperation and coordination between the Government and the Office of the Prosecutor.

We appreciate the work done until now by the Office of the Prosecutor, and we see the involvement and interest of the Libyan authorities in the process as positive signs. We await with interest the decisions of the Court on both challenges made by the Government of Libya to the admissibility of the cases against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. We believe that the situation will help determine the impartiality, independence and ability of the Libya judicial system to function. As a result, it will also help strengthen the judiciary, which is essential to developing the rule of law. Whatever the decision of the ICC on the admissibility of the two cases may be, we believe that the Office of the Prosecutor must closely follow and remain involved in the progress and decisions made in both cases. In particular, we believe that all the necessary steps must be taken to preserve evidence and protect witnesses while the decision is taken on the challenges to those cases.

Furthermore, with respect to cooperation pursuant to resolution 1970 (2011), Libya is obligated to cooperate with the Court and the Office of the Prosecutor. We note that many of the requests for assistance made in connection with the situation in Libya have not yet been responded to satisfactorily. We therefore believe that the possibilities of cooperation between the Council and the International Criminal Court have not yet been exhausted, not only when it comes to Libya, but also when it comes to other interested States and organizations.

Guatemala believes that the Security Council must continue to monitor the events and situations referred to the Court, as well as the obstacles that the Court may encounter in the conduct of its work. As to other crimes committed in Libya, we believe that it is extremely important to investigate them and we call on the Office of the Prosecutor to pursue its important work. We reaffirm our call for all possible violations of human rights and crimes against humanity that may have been committed in Libya to be investigated, no matter who the perpetrator might be. In that context, we are especially concerned about gender-based crimes that took place during the conflict. We hope that investigations of such crimes will help bring justice to the victims of those crimes. We likewise call for potential ethnic crimes and those committed in detention centres outside State control to be investigated.

Lastly, we wish to reiterate our support for and commitment to the Court and the Office of the Prosecutor, and we hope that they will continue to do their good work in Libya.

Mr. McKell (United Kingdom): I should like in turn to thank the Prosecutor for her report on the situation in Libya and for her briefing today. The United Kingdom remains a strong supporter of the International Criminal Court (ICC). We thank the Prosecutor and her Office for the detailed work described in the report.

Security and justice sector reform are critical if Libya is to facilitate the rebuilding of State institutions and the return to stability. We, along with our international partners, will continue to work with Libya to provide it with the support it needs to meet the challenges that it faces.

We welcome ongoing efforts to investigate and bring to justice all those members of the former regime who are guilty of abuses and to press forward with implementation of the recommendations made in the latest Human Rights Council resolution adopted on 21 March. It is important, however, that all those who committed crimes be brought to justice. We encourage the Libyan authorities to abandon plans to provide revolutionaries who committed war crimes and crimes

against humanity with amnesty from punishment for their crimes. We call on them to investigate and prosecute all individuals implicated in such abuses. Addressing security and transitional justice remains the immediate challenge for the Libyan Government. We are providing assistance to Libya by sending a justice adviser to contribute to prison — and justice-sector reform projects. We stand ready to give further aid to Libyan-led efforts to build up accountable and transparent security and justice institutions, improve security and strengthen the rule of law.

We fully support the ongoing investigations concerning gender-based crimes, with a particular focus on those outside Libya, and those relating to allegations about the situation in Tawergha. Those efforts continue to play an important part in challenging impunity and ensuring accountability for those who bear the greatest responsibility for the most serious crimes.

We welcome the level of cooperation that the Libyan Government has undertaken with the ICC in relation to the arrest warrants issued against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. Libya's continued cooperation with the ICC is essential. We note that there are now admissibility challenges submitted by the Libyan authorities regarding both cases, and that the Prosecutor's investigations into them are suspended pending a ruling from the ICC judges. We continue to encourage the ICC and the Libyan Government to work together to address matters arising out of the events of June 2012. More generally, we are pleased that Libya and the ICC are continuing to engage constructively on issues relating to the ICC proceedings. It is important that the detention of both Abdullah Al-Senussi and Saif Al-Islam Al-Qadhafi be conducted in accordance with international law, that they have access to legal advisers and that any potential trial held in Libya be consistent with Libya's international human rights obligations.

The authorities of the United Kingdom have played a part in the ICC's investigation so far by providing full support, as and when requested, to the Prosecutor and her team of investigators. We are a strong, principled supporter of the ICC and will continue to provide our full support to the Prosecutor, as and when requested.

Mr. Gasana (Rwanda): I would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her fifth report on the implementation of resolution 1970 (2011) and for the additional information she has provided today.

Rwanda, as co-Chair of the Group of Friends of the Responsibility to Protect, would like to stress that the international community has a responsibility to protect civilians targeted by their own Governments and a duty to ensure that the perpetrators of mass atrocities are brought to justice. That is why we supported resolutions 1970 (2011) and 1973 (2011), on Libya, and called for swift justice for the victims.

Looking forward, we are encouraged by the achievements of the new Libyan Government in rebuilding its institutions with the support of the international community. We are fully aware of — indeed, concerned about — the daunting challenges that the country continues to face, particularly the proliferation of weapons, uncontrolled militias, terrorist activities and political uncertainty, all of which are undermining the State authority of a democratically elected Government. However, we believe the overall trend is positive and that the Libyan Government should be supported and encouraged in its post-conflict efforts aimed at justice, reconciliation and recovery.

To achieve that goal, it is important that the judicial process be carried out by Libyans themselves, with the support of the international community. From our own humble experience, we know that it is indeed important that justice be done close to the victims. In that regard, we take note of Libya's continued cooperation with the ICC and welcome the decision of the Office of the Prosecutor to support the inadmissibility of the case of Abdullah Al-Senussi on the basis of materials provided by the Libyan Government. We also hope that the case of Al-Senussi, together with that of Saif Al-Islam Al-Qadhafi, will eventually be handled by Libyan courts.

We would like to take this opportunity to call on the ICC and the wider international community to ensure that the remaining suspects of war crimes and crimes against humanity in Libya, including those living abroad, are brought before Libyan jurisdictions. It is important in that regard that the international community support and provide assistance to improve Libya's capacity to deal with past crimes and promote the rule of law. We also believe that the sanctions regime in Libya is of paramount importance in building sustainable peace there. During the past two years, the Committee established pursuant to resolution 1970 (2011) concerning Libya, which I currently chair,

has contributed to giving new hope to Libyans in the aftermath of the conflict.

I would now like to speak in broader terms about the role of the ICC and the importance of a genuine system of international criminal justice. Rwanda has always believed that combating impunity must be at the core of the Security Council's mission. We also believe that a robust system of international criminal justice, which must complement national jurisdictions, is essential to ending impunity for the most serious crimes and to promoting reconciliation in post-conflict societies. However, to achieve that goal, such justice must be independent of political interference and uphold the principle of the sovereign equality of States. Needless to say, Rwanda, like many other United Nations Member States, does not believe that the ICC has lived up to those aspirations. In fact, it has been selective in its methods for investigating and prosecuting perpetrators of serious international crimes, since it has failed to prosecute similar crimes committed in other parts of the world with impunity. Furthermore, as has been stated on many occasions, it is difficult to understand how equal justice can be served if the Security Council can refer cases to the Court while the Council's permanent members have discretionary power to block any prosecution of their own nationals or allies.

In that regard, even signatories to the Rome Statute have recently expressed concerns about the Court. I would like to cite the note verbale dated Thursday, 2 May 2013, addressed by the Kenyan delegation to the Security Council, which contains a compelling case against the methods of work of the Office of the Prosecutor on the Kenya cases. That was also pointed out by a judge of the ICC who recently resigned. Why? In that regard, Rwanda hopes that the Security Council will soon schedule a decision on the issue raised by Member States for its programme of work, with a view to addressing the growing concerns of Member States, including signatories to the Rome Statute.

In conclusion, I would once again like to call on the international community to support the Libyan authorities in their efforts to achieve justice and reconciliation through a strengthened judicial system. We also call on the Council and the wider international justice system to engage in a serious discussion of the current status of international criminal justice, with the ultimate goal of establishing an independent judicial system that respects the principle of the sovereign equality of States, as enshrined in the Charter of the United Nations.

Mr. Loulichki (Morocco) (*spoke in Arabic*): At the outset, I would like to extend my thanks and appreciation to Ms. Fatou Bensouda for her comprehensive briefing on developments pursuant to resolution 1970 (2011).

More than two years ago, Libya emerged from dictatorship and despotism and entered an era of building democracy in a State built upon the rule of law. The entire world welcomed that positive transformation, which was not an easy task. On the contrary, the sisterly country of Libya encountered intractable difficulties. Human rights were violated, and the Libyan authorities do not deny that.

The Libyan authorities have undertaken a commitment to face, at the national and international levels, the challenges coinciding with the new situation, whether in the field of security or in humanitarian, economic and social affairs. To demonstrate that commitment, Libya has even-handedly addressed violations committed against Libyans and has given priority to the judiciary in issuing laws that guarantee independence, transitional justice and the establishment of a national reconciliation commission to look into allegations of human rights violations — which the Libyan Constitution also refers to with regard to i ..ernational treaties. Tha' is very important.

The Libyan authorities have also stated that they will not protect those suspected of perpetrating crimes against humanity, nor will they allow impunity for them. By the same token, they are undertaking serious investigations, and they will try the accused in a just manner and in accordance with international instruments.

The Libyan authorities have also promised to try those responsible for crimes against humanity and to develop a plan to achieve national reconciliation, national justice and the preservation of social justice. At the same time, the new Libyan authorities, starting with the National Transitional Council, have declared their willingness to cooperate with the International Criminal Court (ICC) with a view to safeguarding justice for the victims of human rights violations. In that connection, consultations have been held to look into the matters under discussion, in a manner that corresponds with the requirements of national and international laws, through the investigation and fact-finding missions sent to Libya.

The Libyan authorities continue to emphasize their intention to cooperate with the ICC in the contex of respect for Libyan laws and international law. Libya's insistence on trying the inner circle of the former regime does not run counter to ongoing cooperation with the Court; rather, Libyan authorities are pursuing the admissibility challenges in accordance with the Rome Statute.

On that basis, we welcome the general trend in the Council to give priority to the Libyan judiciary while respecting the principles of complementarity with international jurisdictions and taking into consideration the fact that the Libyan judiciary's work in dealing with such cases should be carried out in accordance with objective, well-known and well-recognized criteria.

We are certain that the new Libya is qualified to respond to all the aspirations of the Libyan people, whatever they might be. The new Libya will remain an active partner in the Arab Maghreb Union in an effort to achieve the goals and unity we all aspire to and to avert the dangers flowing from the proliferation of secessionist terrorist groups and criminal gangs.

In conclusion, I would like to reiterate our full support and backing for the Libyan Government, which is, as we all know, working in a delicate security situation. We urge the international community, represented by the Council — as mentioned in the statement made by Ms. Bensouda — to provide the necessary assistance with a view to enabling the Libyan Government to face up to the challenges it faces, foremost among which are disarmament, security, border monitoring, the reintegration of former combatants, solving the problems of refugees in a manner that respects human rights and the achievement of national reconciliation. I would like to express Morocco's readiness to continue to cooperate with our brothers in Libya to develop national laws and institute national transitional justice.

Mr. Musayev (Azerbaijan): I also would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for her briefing and for presenting her fifth report to the Security Council in accordance with resolution 1970 (2011).

Azerbaijan is not a party to the Rome Statute of the International Criminal Court. Nevertheless, as we have repeatedly stated on previously occasions, the protection of civilians, respect for international human rights and humanitarian law and the fight against impunity for the most serious crimes are the responsibility of the international community as a whole.

Libya's progress demonstrates the irreversibility of the democratic transition process in the country. We know of the efforts of the Government towards the implementation of the required policies and strategies to address the challenges that the country is facing. We commend the Libyan Government for its constructive cooperation with the Office of the Prosecutor and its engagement in the judicial process at the International Criminal Court (ICC).

As the report notes, the strength of the Rome system lies in the possibility for shared responsibilty and complementary actions between the Court and Libyan judicial institutions. During the reporting period, the Libyan authorities continued to demonstrate their commitment to ensuring an effective and genuine investigation and fair trials, consistent with the required international standards.

We note that, based on its assessment of Libya's relevant submission, the Office of the Prosecutor asserted that the case of Abdullah Al-Senussi was inadmissible and should therefore be prosecuted at the national level. We look forward to a decision by the judges of the Pre-Trial Chamber as to whether both cases remain admissible before the ICC. It is therefore essential that the Government of Libya continue to cooperate with the ICC and provide it with all the necessary information that might be needed by the Court to properly assess the admissibility challenges.

We take note of the Prosecutor's update in relation to gender crimes and on other ongoing investigations, including with regard to those individuals outside Libya who continue to pose a security threat to the Government. The close cooperation between the authorities and the Office of the Prosecutor is essential in that regard.

The Government of Libya is committed to a comprehensive strategy to address all crimes and end impunity in the country. It is important to continue to demonstrate that justice remains a key priority and to ensure that victims of all crimes have the opportunity to seek resolution within the national legal system.

Mrs. Perceval (Argentina) (*spoke in Spanish*): Argentina would like to thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for presenting her fifth report pursuant to resolution 1970 (2011).

The problematic and much-discussed question of peace and justice is one that the international community has faced many times — sometimes jointly and sometimes in opposition to one another. We find it n encouraging that it has now been recognized that we cannot maintain the old justice-versus-peace paradigm, and that we must embrace a new paradigm in which peace and justice are complementary objectives. We have come to see that, de jure or de facto, amnesties do not contribute to peace, and that in some cases they have actually sent the dangerous message that serious crimes may be tolerated.

Furthermore, where criminal justice processes have been launched, we have not seen the anticipated negative consequences for peace efforts. In 2003, the Congre s of Argentina adopted a declaration of invalidity — the so-called laws of due obedience or final point, which might just as well have been called laws of amnesty, oblivion or pardon. In 2005, the Argentine Supreme Court unanimously ruled that these laws of oblivion, as they are known to human rights activists, were unconstitutional and null and void. Since then, through due process and respect for all constitutional guarantees and national justice, 378 members of the former regime have been found guilty of crimes against humanity, 232 have been accused with oral proceedings under way, and 1,013 military, civilian and religious figures have been indicted.

These legal proceedings have allowed us as a society— for instance, through the work of the Abuelas de Plaza de Mayo concerning the systematic abduction of children — to exercise our rights to truth and identity. Today, of the 500 children being sought, 107 have been found and restored to their true identity. I raise this issue because our debates on this issue have led us to the conclusion that justice contributes to sustainable peace and reconciliation. Our painful experience — only one among thousands of painful experiences that humankind has suffered and continues to suffer — allows us to affirm that social reconciliation, sustainable peace and effective and genuine democracy can be achieved through justice, truth and remembrance. I apologize for introducing such personal testimony, but I believe that the best way to participate in debates is to put one's full self into them and to testify to events in our own countries, not in order to cite them as paragons, but to demonstrate how, in different circumstances, we can seek and find responses that honour the principles of truth, justice and peace.

Argentina welcomes the assertion of the Prosecutor that previous limitations in contacts with the Libyan Government have been overcome, and that her Office renewed its contacts with the new Administration following the elections of 7 July 2012. We welcome the constructive dialogue between the Office of the Prosecutor and the Libyan delegation that recently visited The Hague. We hope that they will proceed to explore opportunities to foster the complementarity that defines the relationship between the Court and States.

Another area of potential cooperation mentioned by the Prosecutor concerns the possibility that aerial attacks by NATO may have killed or injured civilians. Like the Prosecutor, we call on NATO to cooperate fully with the Libyan authorities in their efforts to investigate casualties, injuries and damages to the civilian population.

As regards cooperation on the part of all States with the ICC, Argentina has repeatedly asserted that it is crucial and cannot be limited to the State or States parties explicitly involved, whose obligation to cooperate emanates from the Rome Statute. Argentina regrets that the Council had not reflected in clearer terms the obligation of all Member States to cooperate with the ICC when it makes a referral. At the same time, we recognize that the Council, in paragraph 5 of resolution 1970 (2011), has urged all States to cooperate with the Court in relation to the situation in Libya, pursuant to Chapter VII of the Charter of the United Nations.

The cases of Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi are both currently suspended by the Office of the Prosecutor due to the challenge of admissibility presented by Libya. We understand that the challenge is subject to a judicial evaluation to be made exclusively by the Court in accordance with article 17 of the Rome Statute. Argentina takes note of the opinion of the ICC regarding the inadmissibility of the *Al-Senussi* case, and calls on the Libyan authorities to comply with the decisions of the Court regarding the admissibility of those cases.

As regards the investigations under way, we hope that cooperative work will be undertaken between the Office of the Prosecutor and the Libyan authorities regarding gender-based crimes, on which the Office is gathering evidence. Moreover, with respect to crimes that may have been committed by rebel forces, we hope that the Office of the Prosecutor shall investigate

the allegations of civilian deaths, looting, destruction of civilian property and forced displacement by the Misurata militias.

We recognize that Libya has demonstrated its full readiness to cooperate with the ICC, as acknowledged by the Prosecutor herself. We call on Libya to provide the Court with all the information necessary to decide on the admissibility challenges. Like the Prosecutor, Argentina fully understands the challenges before the Libyan authorities, and commends the ICC for its willingness to support the Libyan Government in its efforts to address as many cases as possible.

Argentina firmly believes, due to its past experience, that when heinous crimes have been committed there can be no sustainable peace without justice. Therefore, beyond the competence of the ICC — which will naturally focus on those who appear to be the most responsible — it is necessary for the Libyan Government to formulate and put into practice a global strategy for combating impunity and rendering justice for those horrendous crimes. Only accountability before the law and a culture that respects human rights — which implies a culture of collective memory as a guarantee that crimes will not recur — will serve to strengthen peace and provide relief for the victims. Given the scope of the atrocities committed, Argentina believes that a comprehensive strategy that is complemented by the Court can lead to bolstering accountability before Libyan domestic courts, while at the same time making it possible for the International Criminal Court to hear those cases that Libya's judicial authorities cannot address.

Some of the elements of my statement have already been made, so I shall be brief. I would like for the record to reflect a position that Argentina has promoted, and would ask to be taken into account — that is, with regard to the Council's referrals and the situation in Libya, which entail an obligation to follow up such referrals. The Council cannot only take note of reports on the matter. We are pleased that, in its presidential statement S/PRST/2013/2, on the protection of civilians in armed conflict, the Council expressed its commitment to follow up its decisions on ad hoc tribunals and the ICC. Similarly, Argentina reiterates its concern with regard to the provision that the two referrals made to date exempt from the Court's jurisdiction nationals of States that are not parties to the Rome Statute for acts or omissions related to missions established or authorized by the Council or related to them. Also of concern is the issue of the financing of the expenses stemming from such referrals.

In each of the cases and in each of the reports — such as the current fifth report of the Prosecutor — it is relevant to rethink how the Council and the entire United Nations is going to cooperate with the International Criminal Court. At the same time, as we have indicated and affirmed, the purpose of the Court, its noble mission and its functioning under a multilateral system is to put an end to impunity, establish the rule of law, foster and promote respect for human rights and achieve lasting peace in conformity with international law and the principles of the Charter of the United Nations. That is not something just said by this Ambassador — a human rights activist — or even by my country; it is something called for by the international community in the Kampala Declaration and its preamble.

Mr. Masood Khan (Pakistan): We thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her briefing. We have taken note of her fifth report to the Security Council. We commend her hard work and strong commitment to the criminal justice system.

Pakistan is not a signatory to the Rome Statute, and thus it is not a member of the International Criminal Court. However, we recognize the rights and obligations of the States that are members of the ICC.

The formation of a democratically elected Government is a significant achievement for the Libyan people. The country has now entered the important phase of constitution-making, which is critical for its prosperous and stable future. Success in that endeavour can be achieved only with the support and cooperation of all stakeholders.

Recent events in Tripoli, however, confirm that Libya continues to face some daunting challenges. The actions of the revolutionary brigades are likely to undermine the progress so far achieved. We call upon all armed groups in Libya to lay down their arms and to engage in the democratic process and in dialogue to resolve their differences and grievances.

Libya has submitted an admissibility challenge in the case of Abdullah Al-Senussi. The Libyan Government has asserted that it is willing and able to prosecute him, and it therefore has precedence over the Court in accordance with the complementary nature of its jurisdiction. The Prosecutor's report has noted that Libya is acting fully in compliance with the

Rome Statute in challenging the admissibility of the cases against Saif Al-Islam and Abdullah Al-Senussi. We hope that the request of the Libyan authorities to try Al-Senussi and Saif Al-Islam Al-Qadhafi will be positively considered.

We understand that the ICC would like to monitor the trials of those individuals if they are conducted in Libya. The monitoring would be done in accordance with the arrangements made between the Court and the Libyan Government. That would give an opportunity to the Libyan Government to demonstrate its commitment to holding fair trials in accordance with due process, as well as Libya's international obligations.

The ICC Prosecutor has commended the cooperation extended by the Libyan Government. We call upon the Libyan Government to maintain its engagement with the Court and to provide the necessary information for the consideration of those cases.

We also encourage NATO to fully cooperate with the Court, as well as Libya's national efforts to investigate civilian casualties during the conflict.

With regard to the investigation of other alleged crimes committed in Libya, we underline the need to conduct thorough and impartial investigations regardless of which side perpetrated the crimes.

The international criminal justice system has demonstrated that national judicial mechanisms can ultimately be more efficient and cost-effective in dealing with such crimes. The ICC and other international tribunals have succeeded in dealing with only a handful of cases. For the bulk of the cases, greater reliance on national judicial systems is advisable.

Therefore, strengthening the Libyan judicial system is essential for addressing the crimes that occurred in the country. The Libyan Government must continue to formulate and implement a comprehensive strategy to address those crimes. The international community should extend its full support to Libya to achieve that objective.

In the long run, the promotion of reconciliation is essential for fostering national unity and bridging the fissures caused by the conflict. Achieving a balance between the imperatives of justice and peace is always a difficult challenge. That can best be achieved through national mechanisms and institutions.

In conclusion, we underscore Pakistan's full support for the well-being and prosperity of the people of Libya. We wish them success in their quest for reconciliation, stability and institution-building.

Mrs. DiCarlo (United States of America): I would like to thank Ms. Bensouda for her briefing and to welcome her back to the Security Council today. The United States looks forward to continuing our active engagement with the International Criminal Court (ICC) and the Office of the Prosecutor, consistent with our law and policy, to ensure accountability for the most serious crimes of international concern.

Libya continues to make progress under its first democratically elected Government in more than 40 years. The Libyan people are moving forward and charting their own future, and the United States congratulates them for it.

There are clearly tough challenges ahead, from building political consensus to strengthening security and to protecting human rights. There is no doubt that justice and accountability will remain central to the success of Libya's transition and lasting peace in the country. But Libya is not alone on that path. The United States and others in the international community stand ready to assist the Libyan Government and people in reforming their institutions of justice, strengthening the rule of law, and advancing human rights and respect for international law.

We welcome the statements in the Prosecutor's report and briefing today regarding Libya's cooperation, particularly in the cases involving Abdullah Al-Senussi and Saif Al-Islam Al-Qadhafi. As the Prosecutor noted, the proceedings involving Al-Senussi and Al-Qadhafi are reaching critical stages and will continue to attract considerable attention.

This is an important moment for both Libya and the International Criminal Court. We urge Libya to continue adhering to its international obligations, including under resolution 1970 (2011). Furthermore, the United States remains deeply concerned by allegations of rape and sexual violence, as documented by the United Nations Commission of Inquiry. We believe that accountability for those and other serious crimes is critical.

Whatever the outcome of the admissibility proceedings before the ICC, Libya will need to bolster domestic accountability structures and processes to create a strong, fair and credible system of justice. The Government must not tolerate impunity for perpetrators

of serious crimes, regardless of their affiliation or the nature of their crimes, and it should act to ensure transitional justice consistent with Libya's international human rights obligations. In particular, we urge Libya to develop and implement a comprehensive transitional justice strategy that uncovers the truth about past abuses, holds accountable those most responsible, brings justice to the victims and addresses the root causes of abuse. Only by reckoning with its past can Libya finally realize the promise of its transition.

Ms. Lucas (Luxembourg) (*spoke in French*): I would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her report and her detailed briefing. Luxembourg fully supports the objectives presented by the Prosecutor. We can never overstate the importance of respect for the principle of accountability and the fight against impunity. Those universal goals guide the work of the United Nations and are at the centre of the international community's concerns. I also wish to commend the Prosecutor for the investigations her Office has undertaken on all the facts and evidence necessary to establish the legal accountability of the perpetrators, in accordance with the Rome Statute.

We welcome the significant progress made in Libya in terms of political and democratic transition, even though challenges undoubtedly remain, in particular with regard to security. Through the adoption of 1970 (2011), the Security Council decided that the Libyan authorities should fully cooperate with the International Criminal Court (ICC) and the Prosecutor and provide them with all necessary assistance. In that regard, we welcome the visit to The Hague on 19 April of the Prosecutor-General of Libya and the Libyan focal point for the ICC to discuss cooperation and the coordination of efforts to move the investigations forward, in accordance with the principle of complementarity. We commend the intention expressed by the Prosecutor this morning to visit Tripoli in the near future to deepen those exchanges. We believe that it is highly important for the Libyan authorities to continue to cooperate with the ICC and that the Prosecutor should enjoy the support she needs from all States, including those that are not parties to the Rome Statute, without precondition or limitation.

We await with interest the decision to be taken by the Court with regard to the admissibility challenges of Libya in the cases of Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. That decision will require the Libyan legal system to be assessed for sufficient impartiality and independence, and for the necessary capacity to respond to the post-conflict challenges it faces. We trust that the Court and its assessment will ensure that the cases will be in full conformity with international standards. Regardless of the Court's final decision, we agree with Ms. Bensouda that the Office of the Prosecutor must be informed of all measures and decisions taken by the Libyan authorities in those cases.

We are concerned by the reports, especially those coming from the International Commission of Inquiry on Libya, with regard to sexual violence and the recruitment and use of children. We thank Ms. Bensouda for the information she provided on the ongoing investigations. We insist on the need to ensure the protection of the victims of those acts in order to prevent any risk of new suffering or potential reprisals.

With regard to the allegations of crimes committed by rebel forces, we share the concerns of the Office of the Prosecutor on the situation in Tawergha, where the violence against the civilian population perpetrated by Misurata militias could constitute war crimes or crimes against humanity. We deplore the fact that the security situation currently makes it impossible for the Office of the Prosecutor to have access to those areas.

Reprisals, such as those committed against civilians and described in the Prosecutor's report, are unacceptable. Arbitrary arrests, violence in detention centres and forced disappearances must stop. The perpetrators must be held accountable. We welcome the ongoing efforts of the Office of the Prosecutor to that end. We call on the Prosecutor and her Office to sustain their commitment along those lines, in cooperation with the Libyan authorities .

In conclusion, like Ms. Bensouda, we would like to encourage the Libyan authorities to draw up, publish and implement a comprehensive strategy to end the crime and impunity in Libya. The process initiated by resolution 1970 (2011) must run its course. That calls both for Libya's full cooperation with the Office of the Prosecutor and the full support of the Security Council, the Secretariat and the United Nations Support Mission in Libya. Justice must be done. Impunity cannot be tolerated. Those responsible for the crimes committed in Libya must be brought to justice and undergo a fair trial.

Mr. Briens (France) (*spoke in French*): I thank the Prosecutor of the International Criminal Court (ICC)

for her report and briefing and, in that connection, I reiterate our full support to her. It is particularly useful that this debate was preceded yesterday by an informal interactive dialogue, which allowed us to prepare for this meeting.

The aspects touched upon today by the Prosecutor provide insight into the situation in Libya. That country is in transition after 42 years of dictatorship. Violent acts continue, including against diplomatic missions. However, the Libyan authorities, including Prime Minister Ali Zeidan, have consistently reiterated their commitment to pursuing the democratization of the country, and the Council stands ready to help them.

Libya, despite its difficulties, has asked to try Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi itself. That is an option created by the Rome Statute. It is also a tribute to that post-conflict country that it has endeavoured thereby to shoulder its responsibilities.

We welcome the Libyan Government's choice to avail itself of its right to challenge the admissibility of the case before the ICC, in full conformity with the Statute and thus in full conformity with resolution 1970 (2011) . As the Prosecutor reminded us, by law the final decision will be up to the judges of the ICC. We have no doubt that Libya, pursuant to resolution 1970 (2011), will respect that decision. Libya's upholding of its international obligations is a key indicator of its commitment to the rule of law. From that perspective, we must not speak about competition between Libya and the ICC. Libya has obligations under resolution 1970 (2011) and is upholding them; that is the heart of the matter. That is also an example for other countries such as the Sudan that refuse to engage in judicial proceedings with the Court, which runs counter to Council decisions.

The Prosecutor also indicated that she would continue her investigation regarding allegations of sexual crimes committed in Libya by members of Al-Qadhafi's entourage, who may be outside of Libya. She can be assured of our support. The use of rape as a weapon of terror and a weapon of war is a crime to which the Council attaches particular importance.

With regard to the other allegations, we support the Prosecutor in the discussions she is holding with the Government on a comprehensive strategy aimed at putting an end to crime and impunity in Libya. As noted by Ms. Bensouda yesterday, the Council may have a role to play in that regard by stressing, in its deliberations and in its directives to the United Nations Support Mission in Libya (UNSMIL), the issue of the security of Libyan judges and prosecutors. That is an issue that is part and parcel of all efforts to reform local judicial institutions.

Resolution 1970 (2011) remains an example of the capacity of the Security Council and, more generally, the international community to act in a unified and swift manner. Given the crimes perpetrated by Libyan officials, both the United Nations and regional organizations condemned the atrocities that were perpetrated. Resolution 1970 (2011), referring the situation in Libya to the Prosecutor of the International Criminal Court, is at the heart of the process for identifying perpetrators, whatever their rank. It has allowed us to save thousands of human lives.

Today follow-up must be provided to that approach. The Council must be rigorous and better organize its cooperation with the ICC when it refers cases to it. That is one of the lessons that we draw from the public debate on interaction with the ICC held last year under the auspices of Guatemala, as well as yesterday's dialogue. We must be ready to better and more quickly deal with the requests for support and cooperation made by the Court. The easiest thing, of course, would be to request experts to deal with the issue in the framework of the Informal Working Group on International Tribunals. We must also ensure that, in the framework of the Sanctions Committees, we respond to requests for information from the Court.

The process initiated by resolution 1970 (2011) must run its course. Indeed, that is what the Council reiterated in its resolutions 1973 (2011), 2009 (2011), 2040 (2012) and 2095 (2013). That requires both full cooperation on the part of Libya with the Office of the Prosecutor and full support from the Council. It also requires further consultation by the Secretariat and Mr. Tarek Mitri, the head of UNSMIL, with the Prosecutor, so as to ensure that UNSMIL contributes to combating impunity and supports the activities of the ICC. We must ensure, during the next UNSMIL briefing, that the Mission describes to the Council the synergies involved in upholding the mandates of each institution.

The President (*spoke in French*): I shall now make a statement in my capacity as the representative of Togo.

I would like to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC),

for her briefing, which has provided useful information on the situation in Libya, which is before the Court pursuant to resolution 1970 (2011). I wish also to thank her for the information she provided yesterday during the interactive dialogue upstream of her briefing today.

While Togo's position with respect to the Rome Statute of the ICC has not changed, we nevertheless feel that that information has allowed us to better understand the activities of and challenges facing the Office of the Prosecutor in relation to the situation in Libya with respect to the principal aspects of the issue: cooperation, the admissibility of the Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi cases, ongoing investigations and allegations of crimes committed by the various parties.

Turning to cooperation, Togo welcomes the resumption of contacts between the Office of the Prosecutor of the ICC and the Libyan authorities following the elections and the appointment, on 17 March, of the new Prosecutor-General, Abdul Quader Radwan. While we encourage discussions between the ICC and the Libyan authorities, we believe that such discussions will be perceived as constructive and fruitful only if they advocate the prosecution of the perpetrators of the crimes committed, be it on Libyan soil or outside the country. A major challenge facing reconciliation in Libya is that prosecution either by the ICC or by national courts must not target one single party but all parties, so as not to give the impression of a victor's justice.

The ICC must ensure that its cooperation with the Libyan authorities correct any adverse effects that might result from any amnesty law, under the pretext of promoting or protecting the revolution, or that might aim to protect the perpetrators of crimes committed in the framework of the revolution but that fall under the jurisdiction of the Court and thus the Rome Statute.

On the issue of complementarity, Togo believes that the prosecution and sentencing of perpetrators is the responsibility first and foremost of the Libyan authorities. Togo therefore believes that Libya's decision to challenge the admissibility of the *Saif Al-Islam Al-Qadhafi* and *Abdullah Al-Senussi* cases before the Court under the Rome Statute is a case in point and an example of active complementarity. We are pleased that, unlike in the *Saif Al-Islam Al-Qadhafi* case, there seems to be evidence in the case of *Abdullah Al-Senussi* that could establish that the Government is prosecuting the same case as the ICC.

Nevertheless, it remains that only reference here can be the decision of the relevant chambers. That is why Togo awaits with interest the decisions of the relevant branches of the Court regarding the cases, in the hope that those decisions will promote the principle of due process and national reconciliation in Libya.

Indeed, while decisions regarding the admissibility exception in the *Saif Al-Islam Al-Qadhafi* and *Abdullah Al-Senussi* cases will not represent a general assessment of the Libyan legal system, they will serve as an indicator of the ability of the national justice system to guarantee due process, justice for victims and the right to defence for all, as well as witness protection.

With regard to the ongoing investigations, Togo is convinced that gender crimes must not go unpunished and is pleased that the fifth report and that which preceded it confirm that those investigations are under way. Togo hopes that those investigations will be concluded and prosecution begun against the perpetrators.

Moreover, we are concerned about the recurring reports by human rights organizations of serious violations of rights in the form of torture or ill-treatment, particularly against persons of African origin on the basis of their alleged association with the Al-Qadhafi regime.

Togo also expresses its concern about the crimes committed by rebel forces in Tawergha, near Misrata, and calls on the Libyan authorities to take measures to ensure that the perpetrators of those crimes are held accountable for their actions by national courts, or to cooperate fully with the ICC. Togo therefore urges the Libyan authorities not only to draw up a strategy for past crimes but also to explore the possibilities for transitional justice to address the impacts of the crisis and political events, with the aim of promoting peace throughout the country and national reconciliation. In that regard, we reiterate our call to all of Libya's partners to spare no effort in assisting the country on the path to achieving those goals.

I now resume my functions as President of the Council.

I give the floor to the representative of Libya.

Mr. Dabbashi (Libya) (*spoke in Arabic*): I would like to thank you, Sir, for having given me the opportunity to speak at this important meeting of the Security Council. I also congratulate you on your assumption of the presidency of the Council for this month and I wish you and your delegation success as you discharge that lofty mission.

I also wish to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her comprehensive briefing on the work of the ICC regarding Libya. Ms. Bensouda spoke in detail about the excellent cooperation between her Office and Libya's judicial authorities. It is clear that that relationship is based on complementarity and cooperation. It is also clear that both parties are guided by the common goals of ensuring that justice is done and impunity eradicated.

Without a doubt, the talks between the ICC Prosecutor and the Libyan Prosecutor-General have paved the way for further initiatives in that vein. They may lead to a shift in that relationship, seeing it become a genuine partnership in the framework of complementarity, in the light of the suggestion that the Office of the ICC Prosecutor would investigate those who stand accused of perpetrating heinous crimes but are located outside of Libya.

The ICC Prosecutor addressed in detail the cases of Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi and the proceedings relating to those individuals. I have little to add to her statement in that regard except to reiterate that the circumstances of their arrests were in full conformity with international standards. They, like all persons responsible for heinous crimes, will be prosecuted in line with internationally recognized legal principles. All technical arrangements have been made to commence trials following the completion of investigations.

Today I would like to state anew Libya's commitment to the rule of law and to eliminating any links with the practices of the previous regime. Libyan judicial authorities have indicated their commitment to conducting impartial, objective and transparent trials of all those accused of committing crimes and perpetrating serious violations of human rights in the course of the revolution against the tyrant Al-Qadhafi, as well as under his 42-year regime.

When we talk about the rule of law, we mean that no one can be above the law. No amnesty will be given to any perpetrator of serious crimes, except by general arrangements in the framework of transitional justice and national reconciliation, with the consent of the victims or their relatives, and in a manner that promotes social harmony in the spirit of letting bygones be bygones.

I would like to emphasize that Libya views the ICC as a necessary and important partner for achieving justice, preventing impunity and providing assistance in building technical capacities. Libya hopes that all States will cooperate with the Libyan authorities and the ICC in conducting investigations and bringing the accused to justice. States should not provide accused individuals with safe haven or invoke flimsy pretexts to delay their surrender to our judicial authorities. That is especially important as delaying the handover of perpetrators will deprive our authorities of the opportunity to verify a number of claims made in the course of investigations, thus impeding the delivery of justice.

I would like to state once again that many Al-Qadhafi officials accused of perpetrating crimes remain free and are continuing to work daily to conspire against Libya and other States. I would like to remind all States that, by virtue of paragraph 8 of resolution 2040 (2012), other resolutions and the Rome Statute, all States are duty-bound to closely cooperate with our authorities to bring an end to impunity. I would like to take this opportunity to affirm that the failure to respond to calls for surrender of the accused by the States that are sheltering them will be viewed as the obstruction of justice. It is an unfriendly action that will have an adverse effect on relations between Libya and those States in the future.

I am well aware that many would like to know about the latest incidents that took place in Libya, namely, the siege of the Ministries of Justice and Foreign Affairs as well as the pressures being put on the General National Congress to legislate gender segregation. Those actions are the result of many fanciful and rash notions held by young people following the end of the dictatorship and are rooted solely in personal interest. It is natural and expected in a situation like the one my country is going through. We are seeing immature political action and party wrangling guided by national ambitions, not necessarily ideological ones. In the case of Libya, political action has generally always been reasonable — which serves to hamper the spread of immature behaviour. In any case, it will definitely not undermine the process of political transformation.

The temporary Government is not too weak to deal with such excesses. However, it is aware of the daunting challenges it faces and is behaving wisely with respect to the difficulties presented to our fledgling institutions. Those institutions are resolved not to use force against excessive actions undertaken by armed groups who purport to operate under the Ministry of Defence. However, those groups are not very familiar with military rules or practices.

The Government is absolutely committed to preventing Libyan infighting. It will not use legitimate force, except in the cases of serious violations of the law, demonstrable threat to the lives of our people, or harm to property of the State or foreign nationals.

Despite everything I have mentioned, the Government is eager to entrench respect for human rights and fundamental freedoms. It is constantly looking for assistance from the international community and the United Nations in order to achieve democratic transformation and the building of a stable and democratic State.

In conclusion, I would like to draw attention to the fact that the transitional phase in Libya is a decisive and momentous one for our people. The transitional Government faces a number of complex and intertwined challenges that require judicious and patient treatment that takes into consideration all aspects, with a view to improving the security situation and creating the conditions necessary for the achievement of justice and the building of State institutions on a sound basis. In turn, that will serve to energize the economy and to respond to the ambitions and aspirations of our citizens. There is no doubt that the understanding shown by the Council and the international community and their help in building the capacity of our Government will greatly contribute to the transition and the transformation of our country into a real democracy.

The President (*spoke in French*): I now give the floor to Prosecutor Bensouda to respond to the comments and questions that were raised.

Ms. Bensouda: I also want to express my gratitude to the members of the Security Council for their words of encouragement and support for the Office of the Prosecutor and our work.

While today the Council is not discussing the situation in Kenya, I find myself compelled to set the record straight with regard to remarks made by the Permanent Representative of Rwanda.

The International Criminal Court (ICC) has always and will always continue to respect the sovereign equality of all States. However, the ICC will not shy away from investigating individuals for any alleged crimes, irrespective of their status. On the basis of the Permanent Representative of Rwanda's statement, I must surmise that the information contained in Kenya's letter to the Council is unfounded and incorrect. It is a backdoor attempt to politicize the judicial processes of the Court. The letter referred to by the Permanent Representative of Rwanda has not been transmitted to us. We therefore reserve our rights to respond to it in detail in due course and we hope we will be given that opportunity once it has been transmitted to us.

Furthermore, it is for the presidency of the International Criminal Court to assign and reassign judges to different chambers, depending on the exigencies of the work. I reject as an unfounded attempt to discredit the work of the International Criminal Court any insinuation that the reassignment of Judge Christine Van den Wyngaert has anything to do with the working methods of the Office of the Prosecutor or of the Court as a whole.

The President (*spoke in French*): I thank Prosecutor Bensouda for the clarifications that she has provided.

There are no further speakers inscribed on my list. The Security has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 12.10 p.m.